

INTERNAL REVENUE SERVICE
TE/GE DIVISION
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

CERTIFIED MAIL, RECEIPT REQUESTED

Date: APR 13 2000

Employer Identification Number:

DLN:

Contact Person:

Contact Telephone Number:

RECEIVED

APR 29 2000

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code. CHIEF REVIEW SECTION

The information submitted discloses that you were organized as an unincorporated association with Articles of Association and Bylaws dated [REDACTED]. As stated in the Articles of Association and Bylaws, you are organized to engage in conservation and beautification activities encompassing the greater [REDACTED] area of the [REDACTED]. Your activities include, but are not limited to, cleaning up debris and other trash from the streets and vacant lots in the area and beautifying the common elements (such as [REDACTED]) by planting and maintaining landscapes; promoting safety and welfare by sponsoring, in part, the city of [REDACTED]'s neighborhood offices located in the area; acting as liaison between neighborhood and civic associations in conservation or beautification of the greater [REDACTED] area; and the orientation and education of new residents and businesses regarding the history and traditions of the area.

In Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code submitted [REDACTED], you indicate your purpose is to clean and beautify public areas of the [REDACTED] area of the [REDACTED]. Specifically, your activities include:

- providing daily clean up of the [REDACTED] including eighteen vacant lots and the metro bus stops;
- providing temporary and permanent trash receptacles for [REDACTED];
- coordinating clean-up activities of local civic associations and the [REDACTED];
- sponsoring one police bicycle providing security in the area; and
- providing information to new residents about the history and traditions of the area.

[REDACTED]

You state that [REDACTED] % of your financial support will be donations from the Westheimer Street Festival. Your three-year projected budget indicates you expect to spend [REDACTED] % of the funds for salaries or wages and the remaining [REDACTED] % for "other expenses". You did not provide the required schedule to identify the "other expenses" or their individual amounts.

In our Letter 1312 dated May 13, 1999, we requested clarification of data provided or additional information. Specifically, we requested:

- more details relating to your activities and an explanation of how they may be distinguished from those of a for-profit business;
- more information relating to your officers and directors, their qualifications for the position held, their business or family relationships with other officers or directors, and a request that you expand your Board of Directors to include non-related individuals from the community; and
- a list of all present and proposed salaried employees or other compensated individuals including name, position, duties, qualifications, hours worked, etc.

In that letter we indicated that it did not appear you would qualify for exemption under section 501(c)(3) of the Internal Revenue Code which describes organizations that serve charitable, religious, scientific, or educational purposes exclusively. We indicated that you were best described by Code section 501(c)(4) as a civic league operated primarily for the promotion of the common good and general welfare of the people of the community. We suggested you request consideration under section 501(c)(4) of the Code by filing Form 1024, Application for Recognition of Exemption Under Section 501(a) or For Determination Under Section 120, or to request consideration under both Code sections 501(c)(3) and 501(c)(4).

In conclusion, we indicated that if you pursue exemption under Code section 501(c)(3) it would be necessary for you to amend your Articles of Association and Bylaws to include specific language (provided to you), to have the document signed and dated by at least two officers, and to return a copy of the signed and dated Amended Articles of Association and Bylaws. We also requested copies of published materials relating to your organization and copies of written contracts, leases, or agreements entered into by the organization.

You responded to these questions in a letter [REDACTED]. With regard to questions pertaining to your activities, you stated "The [REDACTED] sponsors a street festival in the [REDACTED] in the spring and autumn of each year. The festival has been held since [REDACTED]. As part of its responsibilities, the association always cleaned the area in which the festival was located before, during and after the street festival itself. In addition, the [REDACTED] is home to many other festivals during the entire year . . . So, daily clean up for the area is essential."

In response to our question about expansion of your board you stated, "It is anticipated that, as [REDACTED] expands, members of other community and civic association organizations will become members of the organization's board. However, since it is such a new organization, no contacts has yet been made with those organizations about nominating board members."

[REDACTED]

You provided the names and addresses of two individuals identified as officers and directors of the organization but provided no information about their qualifications, duties, or the extent to which each officer will actually be involved in the day-to-day operations of the organization.

We asked for information about compensated employees or other compensated individuals. You stated you occasionally use contract labor, paid a per diem rate, but provided no other details regarding these laborers or copies of documents or contracts relating to them. You stated no board member, officer or volunteer receives compensation and that any future payments of salaries, wages, fringe benefits, or other forms of compensation will not exceed a value that is reasonable and commensurate with the duties and working hours associated with such employment.

In addition, you enclosed a copy of the Amended Articles of Association and Bylaws, but they were not signed or dated; you stated that the organization had no written literature and has not entered into any written leases or other agreements.

[REDACTED], IRS agent assigned to the case, telephoned [REDACTED] [REDACTED] on [REDACTED] leaving a message to return the call to discuss the information provided in the letter dated [REDACTED]. [REDACTED] returned the call the same day. The discussion involved issues of the case and included:

- the activities are not exclusively charitable, educational, or religious and do not appear to satisfy the requirements of Code section 501(c)(3);
- the organization's Amended Articles of Association and Bylaws have not been signed or dated.

[REDACTED] indicated that the organization wanted to educate the public about homosexuality. [REDACTED] indicated the organization would be issued Letter 1314, Failure to Establish (FTE) letter to allow an additional 90 days in which to provide the signed and dated copy of the Amended Articles of Association and provide additional information describing the programs to educate the public about homosexuality.

Your response to Letter 1314, received [REDACTED], was considered to be inadequate:

- you provided no additional information that would support a favorable determination of exemption under Code section 501(c)(3);
- once again, the copy of the Amended Articles of Association and Bylaws submitted had not been signed and dated by the officers or directors.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations, associations and trusts organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

[REDACTED]

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organization described in Section 501(c)(3). It is quoted, in part, as follows:

(a)(1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organization test or the operational test, it is not exempt.

(a)(2) The term "exempt purpose or purposes" as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

(c)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Revenue Procedure 84-46, Cumulative Bulletin 1984-1, page 541, section 5.02 reads, in part, as follows:

"Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy the requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities; the anticipated sources of receipts; and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded."

The information submitted with your application and in response to our requests for additional information is incomplete, vague or evasive. Because the organization has been unable to provide concrete, detailed descriptions of its proposed activities, funding and expenses, this office is unable to make a determination as to its qualifications as an organization described in Section 501(c)(3) of the Internal Revenue Code. Under the authority of the above mentioned revenue procedure, it is held that a record of actual operations will be required before a ruling or determination will be issued.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

[REDACTED]

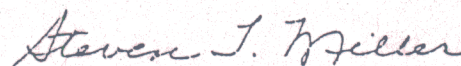
You are required to file Federal Income Tax Returns. Contributions to you are not deductible by the donors as charitable contributions defined in Section 170(c) of the Code.

If you do not agree with these conclusions you may, within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedure for Adverse Determination, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

If you agree with this determination, please sign and return the enclosed form 6018. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,



Steven T. Miller, Director
Exempt Organizations

Enclosures:
Publication 892
Form 6018

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare in
Duplicate

Case Number	Date of Latest Determination Letter
Employer Identification Number [REDACTED]	Date of Proposed Adverse Action Letter
Name and Address of Organization [REDACTED] [REDACTED] [REDACTED] [REDACTED]	

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization	
Signature and Title	Date
Signature and Title	Date